

THE INDEPENDENT

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JURY VERDICTS.

The grand and petit jury systems are being subjected to great deal of discussion in the territories that are about to become states. Particularly in this case in Montana and Washington. In the latter territory a strong sentiment has developed in favor of the proposition that in civil cases two-thirds of a petit jury shall decide, instead of the whole, as has been the rule, and that the same number shall be sufficient for conviction in criminal prosecutions. This proposed departure from common usage in the United States will impress most laymen as an attempt to infringe the right of the subject to a trial by jury, which has been generally considered to mean for a person accused of a misdemeanor or a felony the right to be tried by twelve men, the consent of every one of whom is necessary to a verdict of acquittal; but as a matter of fact the principle of majority rule might as well be applied in courts of justice as in other departments of government. The number of instances within the memory of most men of mature years in which, according to the testimony of the jurymen, justice has been defeated by the presence upon a jury of one person subject to improper influences will at least induce them to consider carefully whether the unanimity feature of jury verdicts is to be as freely commended as it has been. In civil cases, it has become more and more obvious, litigants who have faith in the justice of their cases are disposed to waive trial by jury and abide by the decision of the presiding judge. This condition of public sentiment in Helena has been several times commented upon in the INDEPENDENT as showing increased confidence in the impartiality of the judiciary and a distrust of juries; the uncertainty of whose action has been the subject of remark and jest for a great many years.

The California constitution has made a new departure in the matter of jury trials, the instrument providing that—"The right of trial by jury shall be secured to all, but in civil actions three-fourths of the jury must concur in a verdict. Trial by jury may be waived in all criminal cases not amounting to capital offenses, and in civil cases, the jury may be waived by the parties, signed in such manner as may be prescribed by the legislature, and cases of misdemeanor, the jury may consist of any number of men, not less than twelve, upon whom the parties may agree in open court."

The logical sequence of this provision is that the two-thirds rule should apply in criminal as well as civil cases, and if once the rule is generally established as to civil cases it is pretty certain to be extended so as to include criminal prosecutions. The California constitution is in advance of those of other states upon the subject of trial of civil cases by jury, and its operation in this particular is said to fully justify the wisdom of the new departure. The example and experience of that state form subjects worthy of the careful consideration of the gentlemen who will assemble in this city on Wednesday to frame a constitution for the state of Montana.

RELATIONS WITH CANADA. There is a slight conflict of authority between two special committees of the United States senate, whose lines of investigation cross. One of these is the senate committee on railway relations with Canada, of which Mr. Culom is chairman, and the other is Mr. Hoar's committee on trade relations with Canada. Recently the attention of Mr. Culom was called to the fact that Mr. Hoar's committee had been examining the railway men at St. Paul, and he expressed surprise that such a thing should have been done. Mr. Hoar's committee, Mr. Culom said, was authorized with the express understanding that it should not take up railway questions at all, and he leaves it to be inferred that the Massachusetts man's committee was altogether unnecessary, except as it gave the members the opportunity of visiting distant parts of the country at government expense. Under the circumstances, Mr. Culom appeared to think the other committee, and which has been created subsequent to the one over which he presides, is disposed to infringe upon the prerogative of the committee on railway relations with Canada.

Mr. Culom stated incidentally, after relieving his mind upon the subject of the infringement of his rights by Mr. Hoar, that ultimately the United States and Canada will be forced to enter into an arrangement corresponding to the interstate commerce law, for railway managers in both countries believe that they are made to suffer by the policy of railways across the line.

It is very desirable that the council should take some action upon the report of the committee appointed to ascertain the taxable property for street sprinkling purposes. Few works are more necessary to comfort, and almost to existence, in Helena than street sprinkling. Already, although the dry season has scarcely begun, the dust is high and intolerable. The impracticability of having sprinkling done by private subscription need no demonstration since it has had the present season, since in its wisdom the council stopped the work in that direction. The report cannot be permitted to lie upon the table any longer than it can be reached for proper consideration.

Gov. FORAKER, of Ohio, is for the third time the nominee of the republican party of his state, having carried the day in the convention at Columbus yesterday. His candidacy is a tempting bait, for in the last election he has succeeded in antagonizing strong elements in his party by showing that he aspires to a seat in the United States senate. Ex-Gov. Foster, at present on the Sioux commission, has a similar ambition, and accordingly may be counted as at least lukewarm towards Gov. Foraker. Outside of party cliques, also, the governor is not as popular as he once was, because of the acerbity of his language upon numerous occasions. It will be a wonder, indeed, if the governor should pull through, particularly if the democrats make a judicious nomination.

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WILLIAM WALTER PHELPS, of New Jersey, who parts his hair in the middle and who was Blaine's Man Friday in the campaign of 1884, has been appointed minister to Germany, the office to which Murat Halstead was named by the president before the adjournment of congress and rejected by the senate. It is not on record that Mr. Phelps ever offended by criticizing senators, and so there can be no question of his confirmation.

The Spokane Falls papers are seeking to arouse the city authorities to the necessity of improving the fire department and enlarging its equipment. Spokane Falls is like Helena, too large a city to be run upon the village basis. It is cheaper to buy hose and engines for practical purposes than to rebuild a city after it has been burned for want of the means of fighting fires.

The Herald, speaking of the house rules, remarks that "they have proved so bad and give so much power to a faction minority to block all progress," etc., that they will not even adopt them temporarily by the house of representatives of the fifty-first congress. By the way, which party was it in the last few houses that constituted the factions minority?

The death of Mrs. Hayes, wife of the ex-president, will occasion general regret. She was a woman who won as she deserved the respect of the thousands with whom she came in contact, and her devotion to a principle earned her the esteem of many more who never met her. The republican Portland Oregonian contemptuously refers to the defense of Patrick Egan sent out by John M. Thayer, of Nebraska, as the rankest buncombe. Gov. Thayer, who is nothing if not a politician, is a decided degree wiser than his web-foot critic.

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